

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

In re:

CASE NO: 10-54833

) Chapter 13

Andrea Lynn Lewis

)

)

Debtor(s).

)

Judge Marilyn Shea-Stonum

MOTION FOR INSTRUCTIONS  
TO CHAPTER 13 TRUSTEE

HEARING REQUESTED

Now comes the above-captioned debtor, by and through counsel, who prays for the entry of an order instructing the chapter 13 trustee to pay the claim of BFG Federal Credit Union, filed herein on November 26, 2010 designated as proof of claim number seven (7), pursuant to this Court's very specific and clear findings of fact and conclusions of law entered by this Court in its oral decision of March 3, 2011 (docket no. 23). The debtor further prays for the entry of an order directing that the chapter 13 trustee personally audit any oral decisions rendered by this Court in all chapter 13 cases on this Court's docket so that the chapter 13 trustee does not, in the future, file claims recommendations based on his lack of awareness of what the Court finds in such oral decisions. The debtor states the following:

1. On March 3, 2011, the Court rendered an oral decision on the objection of BFG Federal Credit Union to confirmation of the debtor's chapter 13 plan. In its decision, this Court rendered specific findings of fact and conclusions of law based on the testimony of expert appraisers heard by the Court at a hearing on the objection of BFG Federal Credit Union to confirmation of the debtor's chapter 13 plan. The Court found, based on this expert testimony, that the value of the 2004 Chevrolet Venture automobile subject to the lien of BFG Federal Credit Union was \$3,000.00 as set forth by the debtor in her plan and therefore the Court overruled BFG Federal Credit Union's objection to confirmation of the debtor's plan.

2. The Court allowed counsel for the debtor and for BFG Federal Credit Union to telephonically audit this oral decision but no one from the chapter 13 trustee's office chose to participate in this matter at any time. Therefore, the chapter 13 trustee apparently is unaware of what the Court ruled concerning the value of the automobile.

3. Based on his apparent lack of information, the chapter 13 trustee filed herein on March 31, 2011 a "recommendation for treatment of claim" wherein the chapter 13 trustee indicates that he intends to ignore this Court's findings in its oral decision concerning the value of the automobile and that the trustee intends to pay the proof of claim of BFG Federal Credit Union in full.

4. The chapter 13 trustee's "recommendation" states, "although the creditor's objection to confirmation was overruled, there is no order stating how to pay the creditor's claim." This is patently false as there is an oral decision that does instruct the chapter 13 trustee how to pay this claim. If the chapter 13 trustee had chosen to audit this oral decision he would be aware of the Court's findings but the trustee did not do so.

WHEREFORE, the debtor prays for the entry of an order instructing the chapter 13 trustee to pay the claim of BFG Federal Credit Union consistent with this Court's findings of fact and conclusions of law set forth in its oral decision referred to above. The debtor further prays that the chapter 13 trustee be directed to participate personally in future oral decisions that affect chapter 13 cases on this Court's docket. The debtor further prays for such other and further relief as may be equitable and just.

Respectfully Submitted,

/s/ Robert M. Whittington, Jr. 0007851  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was sent by electronic ECF notice this 31st day of March, 2011 to Keith Rucinski, chapter 13 trustee, Scott Fink, attorney for BFG Federal Credit Union and to the U.S. Trustee.

/s/ Robert M. Whittington, Jr.